

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

BILLY JAMES FLEMING,

Plaintiff,

v.

CIVIL ACTION NO. 5:14-cv-24130

JAN-CARE,

Defendant.

MEMORANDUM OPINION AND ORDER

The Court has reviewed the Plaintiff's *Motion to Re-File Out of Time Limits* (Document 41), filed in this Court on December 14, 2015. In a *Memorandum Opinion and Order* (Document 35) issued on June 2, 2015, this Court adopted the *Proposed Findings and Recommendation* (Document 33) of Magistrate Judge VanDervort as to the Plaintiff's *Letter-Form Motion to Dismiss* (Document 30), granted the Plaintiff's voluntary motion to dismiss this action, and ordered that the action be stricken from the docket.

In his most recent motion, the Plaintiff seeks to "re-file" his claims in this Court, and requests that the Court waive any applicable statute of limitations. In support, the Plaintiff directs the Court's attention to Federal Rule of Civil Procedure 6(b), which governs permissive extensions of time for filing motions in a civil action. This rule does not grant the Court independent authority to toll or otherwise waive the statute of limitations applicable to the Plaintiff's underlying claims. For that reason, the Court **ORDERS** that the Plaintiff's *Motion to Re-File Out of Time Limits* (Document 41) be **DENIED**.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and to any unrepresented party.

ENTER: February 5, 2016



IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA